

*Counsel for Plaintiffs and Defendants
Listed on Signature Pages*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE: COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING ADMINISTRATIVE MOTIONS
TO SEAL RELATING TO SUMMARY
JUDGMENT AND *DAUBERT* MOTIONS**

Hon. Claudia Wilken

Pursuant to Northern District of California Local Rule 7-12, Plaintiffs in the above-captioned action and Defendants National Collegiate Athletic Association, Atlantic Coast Conference, The Big Ten Conference, Inc., The Big 12 Conference, Inc., Pac-12 Conference, and Southeastern Conference (collectively, “Defendants,” and together with Plaintiffs, the “Parties”), by and through their respective undersigned counsel, submit the following Stipulation seeking an order adjusting the sealing procedures for the Parties’ summary judgment and *Daubert* briefing papers and related documents as set forth in Local Rule 79-5:

WHEREAS, the Court: (i) entered the Parties’ stipulation and protective order that largely incorporated the six (6) confidentiality designations in *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW, 4:14-cv-2758-CW) (herein “*Alston*”) (“Confidential Information”; “Highly Confidential – Counsel Only”; “Highly Confidential NCAA Member Financial Data”; “Conference Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside Counsel Only”) (*see* ECF Nos. 136–37); (ii) entered the Parties’ supplemental stipulation that created two (2) additional confidentiality designations (“House CSC – Outside Litigation Counsel Only”; “House NSC – Outside Litigation Counsel Only”) (*see* ECF Nos. 147–48); (iii) entered the Parties’ second supplemental stipulation that addressed protections for information produced by NCAA member schools, colleges, universities or institutions (*see* ECF Nos. 180–81) (collectively, the “Protective Orders”); and (iv) entered the Parties’ Stipulation and Order As Modified Modifying Sealing Procedures Relating to Class Certification Briefing and Related Documents (*see* ECF No. 207);

WHEREAS, pursuant to the Court’s Order Granting Stipulation and Setting Case Schedule (“Court’s Scheduling Order”) dated April 7, 2023, Plaintiffs will file their motion for summary judgment and *Daubert* motion(s) as to Defendants’ merits experts on April 3, 2024; the Defendants will file (a) their opposition to both Plaintiffs’ motion for summary judgment and *Daubert* motion(s) and (b) their cross-motion for summary judgment and *Daubert* motion(s) as to Plaintiffs’ merits experts on May 17, 2024; Plaintiffs will file (a) their reply in support of both their motion for summary judgment and *Daubert* motion(s) as to Defendants’ merits experts and (b) their opposition to both Defendants’ cross-motion for

summary judgment and *Daubert* motion(s) on June 28, 2024; and the Defendants will file their reply in support of both their cross-motion for summary judgment and *Daubert* motion(s) as to Plaintiffs' merits experts on July 26, 2024 (*See* ECF No. 243);

WHEREAS, the Parties have sought and obtained discovery, including substantial discovery of information belonging to non-parties that is subject to protection under the Protective Orders, to facilitate the summary judgment and *Daubert* briefing and anticipate that several administrative motions to seal would be filed if the Parties strictly complied with the procedures set forth in Local Rule 79-5;

WHEREAS, the Parties anticipate that numerous Party and non-party declarations in support of any forthcoming administrative motions to seal will need to be filed, and that compliance with the procedures and timing set forth in Local Rule 79-5 will impose a substantial burden on non-parties to file multiple declarations to protect the same or similar information, and on the Court to review and evaluate such duplicative filings;

WHEREAS, the Parties previously stipulated that where information designated "Network Strictly Confidential – Outside Counsel Only" in *Alston* or "House NSC – Outside Litigation Counsel Only Information" is filed, the filing party shall provide written notice to each applicable "Network Intervenor" or "Network" (collectively, "Network Entity") at least five (5) business days in advance of filing an administrative motion to seal the designated material (*see* ECF No.136-3, 137, 148); and

WHEREAS, the Parties agree that a single combined administrative motion to seal covering all sealing requests ("Omnibus Sealing Motion") would be the most efficient way for the Court to handle all sealing issues arising from the Parties' summary judgment and *Daubert* briefing papers and related documents, and that, upon order of this Court, such Omnibus Sealing Motion shall supersede any interim sealing motions that would ordinarily accompany the Parties' opening briefs, opposition briefs, cross briefs, reply briefs, and any associated documents.

THEREFORE, the Parties hereby agree and stipulate that, upon order of this Court:

- The Parties shall file redacted versions of their summary judgment and *Daubert* briefs and related documents on or before the deadlines set forth in the Court's Scheduling Order (*see* ECF No. 243), without accompanying interim motions to seal;

- 1 • The Parties shall file the sealed versions of their summary judgment and *Daubert* briefs and
2 related documents on or before the deadlines set forth in the Court’s Scheduling Order (*see*
3 ECF No. 243), using the ECF Event for “Documents e-Filed Under Seal,” which will make
4 them electronically available to the Court;
- 5 • Within five (5) business days of each filing, the filing Party shall identify for each non-filing
6 Party the portions of the filing Party’s brief and supporting documents that contain
7 information designated as “Highly Confidential – Counsel Only”; “Highly Confidential
8 NCAA Member Financial Data”; “Conference Strictly Confidential – Outside Litigation
9 Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”;
10 “Highly Confidential Billing Records – Outside Counsel Only”; “House CSC – Outside
11 Litigation Counsel Only”; or “House NSC – Outside Litigation Counsel Only”;
- 12 • No later than five (5) days from the last filing (currently July 31, 2024), each Party shall
13 notify any Network Entity of the inclusion of any information designated “Network Strictly
14 Confidential – Outside Counsel Only” or “House NSC – Outside Litigation Counsel Only
15 Information” in any of that Party’s summary judgment and *Daubert* filings;
- 16 • No later than fourteen (14) days from the last filing (currently, August 9, 2024), the Parties
17 shall file an Omnibus Sealing Motion, and, consistent with Local Rule 79-5(f)(2), shall serve
18 the Omnibus Sealing Motion on all Non-Party Designating Parties. The Parties shall also
19 notify any applicable Non-Party Designating Parties of the procedures set forth in Local
20 Rule 79-5(f)(3) and as modified herein. The Parties will cooperate in good faith to divide
21 equitably amongst themselves the burden of notifying all Non-Party Designating Parties of
22 the Omnibus Sealing Motion and Local Rule 79-5(f)(3); and
- 23 • No later than fourteen (14) days from the filing of the Omnibus Sealing Motion (currently,
24 August 23, 2024), any Designating Party must file a statement or declaration in support of
25 sealing, as set forth in Local Rule 79-5(f)(3).

Dated: March 29, 2024

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

WINSTON & STRAWN LLP

By: /s/ Steve W. Berman

By: /s/ Jeffrey L. Kessler

Steve W. Berman (*pro hac vice*)
 Emilee N. Sisco (*pro hac vice*)
 Stephanie Verdoia (*pro hac vice*)
 Meredith Simons (SBN 320229)
 1301 Second Avenue, Suite 2000
 Seattle, WA 98101
 Telephone: (206) 623-7292
 Facsimile: (206) 623-0594
 steve@hbsslaw.com
 emilees@hbsslaw.com
 stephaniev@hbsslaw.com
 merediths@hbsslaw.com

Jeffrey L. Kessler (*pro hac vice*)
 David G. Feher (*pro hac vice*)
 David L. Greenspan (*pro hac vice*)
 Adam I. Dale (*pro hac vice*)
 Sarah L. Viebrock (*pro hac vice*)
 200 Park Avenue
 New York, NY 10166-4193
 Telephone: (212) 294-6700
 Facsimile: (212) 294-4700
 jkessler@winston.com
 dfeher@winston.com
 dgreenspan@winston.com
 aidale@winston.com
 sviebrock@winston.com

Benjamin J. Siegel (SBN 256260)
 715 Hearst Avenue, Suite 300
 Berkeley, CA 94710
 Telephone: (510) 725-3000
 Facsimile: (510) 725-3001
 bens@hbsslaw.com

Jeanifer E. Parsigian (SBN 289001)
 101 California Street, 34th Floor
 San Francisco, CA 94111-5840
 Telephone: (415) 591-1000
 Facsimile: (415) 591-1400
 jparsigian@winston.com

*Counsel for Plaintiffs and the Proposed
 Classes*

Counsel for Plaintiffs and the Proposed Classes

WILKINSON STEKLOFF LLP

LATHAM & WATKINS LLP

By: /s/ Rakesh N. KilaruBy: /s/ Christopher S. Yates

Rakesh N. Kilaru (*pro hac vice*)
 Beth A. Wilkinson (*pro hac vice*)
 Kieran Gostin (*pro hac vice*)
 Cali Arat (SBN 349086)
 Matthew Skanchy (*pro hac vice*)
 Tamarra Matthews Johnson (*pro hac vice*)
 Clayton Wiggins (*pro hac vice*)
 Julian A. Jiggetts (*pro hac vice*)
 Robert Laird (*pro hac vice*)
 2001 M Street NW, 10th Floor
 Washington, DC 20036
 Telephone: (202) 847-4000
 Facsimile: (202) 847-4005
 rkilaru@wilkinsonstekloff.com
 bwilkinson@wilkinsonstekloff.com
 kgostin@wilkinsonstekloff.com
 carat@wilkinsonstekloff.com
 mskanchy@wilkinsonstekloff.com
 tmatthewsjohnson@wilkinsonstekloff.com
 cwiggins@wilkinsonstekloff.com
 jjiggetts@wilkinsonstekloff.com
 rlaird@wilkinsonstekloff.com

Jacob K. Danzinger (SBN 278219)
 ARENT FOX SCHIFF LLP
 44 Montgomery Street, 38th Floor
 San Francisco, CA 94104
 Telephone: (415) 757-5500
 Facsimile: (415) 757-5501
 jacob.danziger@afslaw.com

*Counsel for Defendant National Collegiate
 Athletic Association*

Christopher S. Yates (SBN 161273)
 Aaron T. Chiu (SBN 287788)
 505 Montgomery Street, Suite 2000
 San Francisco, CA 94111
 Telephone: (415) 391-0600
 Facsimile: (415) 395-8095
 chris.yates@lw.com
 aaron.chiu@lw.com

Anna M. Rathbun (SBN 273787)
 555 Eleventh Street, NW, Suite 1000
 Washington, D.C. 20004-1304
 Telephone: (202) 637-2200
 Facsimile: (202) 637-2201
 anna.rathbun@lw.com

D. Erik Albright (*pro hac vice*)
 Gregory G. Holland (*pro hac vice*)
 FOX ROTHSCCHILD LLP
 230 North Elm Street, Suite 1200
 Greensboro, NC 27401
 Telephone: (336) 378-5200
 Facsimile: (336) 378-5400
 ealbright@foxrothschild.com
 gholland@foxrothschild.com

Jonathan P. Heyl (*pro hac vice*)
 101 N. Tryon Street, Suite 1300
 Charlotte, NC 28246
 Telephone: (704) 384-2600
 Facsimile: (704) 384-2800
 jhey1@foxrothschild.com

Alexander Hernaez (SBN 201441)
 345 California Street, Suite 2200
 San Francisco, CA 94104-2670
 Telephone: (415) 364-5540
 Facsimile: (415) 391-4436
 ahernaez@foxrothschild.com

*Counsel for Defendant Atlantic Coast
 Conference*

MAYER BROWN LLP

COOLEY LLP

By: /s/ Britt M. Miller

By: /s/ Whitty Somvichian

Britt M. Miller (*pro hac vice*)
Matthew D. Provance (*pro hac vice*)
Daniel Fenske (*pro hac vice*)
71 South Wacker Drive
Chicago, IL 60606-4637
Telephone: (312) 782-0600
Facsimile: (312) 701-7711
bmiller@mayerbrown.com
mprovance@mayerbrown.com
dfenske@mayerbrown.com

Whitty Somvichian (SBN 194463)
Kathleen R. Hartnett (SBN 314267)
Ashley Kemper Corkery (SBN 301380)
3 Embarcadero Center, 20th Floor
San Francisco, California 94111-4004
Telephone: (415) 693-2000
Facsimile: (415) 693-2222
wsomvichian@cooley.com
khartnett@cooley.com
acorkery@cooley.com

Christopher J. Kelly (SBN 276312)
Two Palo Alto Square
3000 El Camino Real, Suite 300
Palo Alto, CA 94306-2112
Telephone: (650) 331-2000
Facsimile: (650) 331-2060
cjkelly@mayerbrown.com

Dee Bansal (*pro hac vice*)
1299 Pennsylvania Ave. NW, Suite 700
Washington, DC 20004-2400
Telephone: (202) 842-7800
Facsimile: (202) 842-7899
dbansal@cooley.com

*Counsel for Defendant The Big Ten
Conference, Inc.*

Mark Lambert (SBN 197410)
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400
mlambert@cooley.com

Rebecca Tarneja (SBN 293461)
355 S. Grand Ave., Suite 900
Los Angeles, CA 90071-1560
Telephone: (213) 561-3250
Facsimile: (213) 561-3244
rtarneja@cooley.com

Counsel for Defendant Pac-12 Conference

SIDLEY AUSTIN LLP

ROBINSON BRADSHAW & HINSON, P.A.

By: /s/ Angela C. Zambrano

Angela C. Zambrano (*pro hac vice*)
 Natali Wyson (*pro hac vice*)
 Chelsea Priest (*pro hac vice*)
 2021 McKinney Avenue, Suite 2000
 Dallas, Texas 75201
 Telephone: (214) 981-3300
 Facsimile: (214) 981-3400
 angela.zambrano@sidley.com
 nwyson@sidley.com
 cpriest@sidley.com

David L. Anderson (SBN 149604)
 555 California Street, Suite 2000
 San Francisco, California 94104
 Telephone: (415) 772-1200
 Facsimile: (415) 772-7400
 dlanderson@sidley.com

Chad S. Hummel (SBN 139055)
 1999 Avenue of the Stars, 17th Floor
 Los Angeles, California 90067
 Telephone: (310) 595-9500
 Facsimile: (214) 595-9501
 chummel@sidley.com

*Counsel for Defendant The Big 12
 Conference, Inc.*

By: /s/ Robert W. Fuller, III

Robert W. Fuller, III (*pro hac vice*)
 Lawrence C. Moore, III (*pro hac vice*)
 Travis S. Hinman (*pro hac vice*)
 Amanda P. Nitto (*pro hac vice*)
 Patrick H. Hill (*pro hac vice*)
 Timothy P. Misner (*pro hac vice*)
 101 N. Tryon St., Suite 1900
 Charlotte, NC 28246
 Telephone: (704) 377-2536
 Facsimile: (704) 378-4000
 rfuller@robinsonbradshaw.com
 lmoore@robinsonbradshaw.com
 thinman@robinsonbradshaw.com
 anitto@robinsonbradshaw.com
 phill@robinsonbradshaw.com
 tmsner@robinsonbradshaw.com

Mark J. Seifert (SBN 217054)
 SEIFERT ZUROMSKI LLP
 100 Pine Street, Suite 1250
 San Francisco, California 94111
 Telephone: (415) 869-8837
 mseifert@szllp.com

*Counsel for Defendant Southeastern
 Conference*

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Jeffrey L. Kessler
JEFFREY L. KESSLER

~~PROPOSED~~ ORDER

The Parties must file the sealed versions of the documents at the time they file the documents in redacted form, using the ECF Event for “Documents e-Filed Under Seal,” which will make them electronically available to the Court.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 4/2/2024



HON. CLAUDIA WILKEN
UNITED STATES SENIOR DISTRICT JUDGE